

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ALLSTATE INSURANCE COMPANY, *et al.*,
 Plaintiffs,
 vs.
 OBTEEN N. NASSIRI, D.C, *et al.*,
 Defendants.

Case No. 2:08-cv-00369-JCM-GWF

ORDER

Emergency Motion to Quash
 or Modify Subpoena (#354)

This matter comes before the Court on Adam S. Kutner's Emergency Motion to Quash or Modify Subpoena (#354), filed on September 29, 2011. Adam Kutner, a non-party to this action, requests the Court quash or modify the subpoena requiring him to appear for deposition on Tuesday, October 4, 2011 at 10:00 a.m. Mr. Kutner requests the Court modify the deposition date to take place on a Saturday or other non-business day because of Mr. Kutner's inability to leave his law practice for an entire business day.


Fed. R. Civ. P. 45(c)(3) states that "[o]n timely motion, the issuing court must quash or modify a subpoena that . . . subjects a person to undue burden." The Amended Subpoena for Videotaped Deposition, informing Mr. Kutner of the October 4, 2011 deposition, was served on September 12, 2011. (*See* Adam S. Kutner's Mtn, Exhibit B.) Mr. Kutner therefore had more than three weeks' notice of the October 4, 2011 deposition, yet he waited to file his emergency motion three business days prior to the scheduled deposition date. The Court finds Mr. Kutner's request to quash or modify the subpoena untimely. Notwithstanding the untimeliness of this request, the Court further finds Mr. Kutner's motion is without merit. Mr. Kutner's claim that requiring him be away from his law practice for an entire business day constitutes an undue burden, is unavailing. Mr. Kutner has had sufficient

1 time to take the necessary steps to ensure that his law practice can operate without his presence during
2 the scheduled deposition time. The Court therefore will not quash or modify the subpoena.

3 Accordingly,

4 **IT IS HEREBY ORDERED** that Adam S. Kutner's Emergency Motion to Quash or Modify
5 Subpoena (#354) is **denied**.

6 DATED this 30th day of September, 2011.

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9 GEORGE FOLEY, JR.
United States Magistrate Judge